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EXECUTIVE DEPARTMENT  
STATE CONSUMER PROTECTION BOARD

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Ann Kutter  
Deputy Executive Director

April 11, 1996

Office of the Secretary  
Federal Communications Commission  
Washington, D.C. 20554

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Re: CC Docket No. 96-45: In the Matter of Federal-State  
Joint Board on Universal Service.

Dear Mr. Secretary:

Enclosed please find an original and four copies of the  
Comments of the Consumer Protection Board in CC Docket No. 96-45.  
Copies have been served on the Federal-State Joint Board in  
accordance with the service list. In addition, a copy was provided  
to the Commission's copy contractor.

Very truly yours,

Joel Blau  
Director  
Utility Intervention

JB/DWE/jf  
Enclosure

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**APR 12 1996**

**FCC MAIL ROOM**

In the Matter of

Federal-State Joint Board on  
Universal Service

CC Docket No. 96-45

COMMENTS OF THE NEW YORK STATE  
CONSUMER PROTECTION BOARD IN RESPONSE TO  
FCC NOTICE OF PROPOSED RULEMAKING  
REGARDING UNIVERSAL SERVICE

Joel Blau  
Director  
Utility Intervention

Douglas W. Elfner  
Utility Intervenor

Dated: April 11, 1996  
Albany, New York

ANN KUTTER  
DEPUTY EXECUTIVE DIRECTOR  
NYS CONSUMER PROTECTION BOARD  
SUITE 1020  
99 WASHINGTON AVENUE  
ALBANY, NEW YORK 12210  
(518) 486-6532

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FEDERAL COMMUNICATIONS COMMISSION

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CONSUMER PROTECTION BOARD IN RESPONSE TO  
FCC NOTICE OF PROPOSED RULEMAKING  
REGARDING UNIVERSAL SERVICE

OVERVIEW

As required by Section 254(a)(1) of the Telecommunications Act of 1996 (1996 Act), the Federal Communications Commission (FCC) initiated this rulemaking proceeding to address universal service. In its March 8, 1996 Notice of Proposed Rulemaking (NPRM), the FCC explained that this proceeding would (1) identify services that will be supported by Federal universal service mechanisms; (2) define those support mechanisms; and (3) recommend other changes to implement the universal service provisions of the 1996 Act. (NPRM FCC 96-93, CC Docket No. 96-45, issued March 8, 1996, at 2-3)

The New York State Consumer Protection Board (NYCPB) -- a state agency which represents the interests of New York's consumers -- respectfully submits these comments in response to the NPRM.

Universal service -- the policy goal of ensuring all citizens access to affordable telephone service -- is a cornerstone of effective telecommunications policy. Affordable access to telephone service is a necessity, and is critical to the health,

safety, education, and employment of telephone subscribers. Our comments focus on three areas of critical importance.

First, the list of services to be made universally available should be expanded. Universal service support should be provided to relay services which allow persons with disabilities to access the telecommunications network. Directory listings should receive universal service support since they are essential for access to the telecommunications network. Universal service support should be available for Caller ID blocking, services which allow customers to restrict access from their telephone to groups of services such as pay-per-call or 900 number services, and Call Trace, a service with substantial public safety implications. Our proposed modifications will help ensure that all telephone customers have greater control over their telephone numbers and can access services which help protect them from potentially abusive uses of telecommunications. These additional services are not expensive to provide and their inclusion in universal service support mechanisms would not place undue pressure on telecommunications prices.

Second, universal service support should be available in rural, insular and high cost areas for both residential and single-line business customers. The reasons for providing universal service support to residential customers apply with equal force to single-line business customers. Both require access to the telephone network and both have little or no flexibility in obtaining that access or determining the price they must pay for that access.

Third, the universal service support mechanism should be competitively neutral. Universal service support should be collected and distributed in a competitively neutral manner, so that no service provider is advantaged or disadvantaged by the program. The amount of universal service support should be based on the costs of providing core services, and not on the existing prices of those services.

I. THE LIST OF SERVICES FOR WHICH SUPPORT WILL BE PROVIDED SHOULD BE EXPANDED.

Basic or core services are those required for minimally acceptable access to, and use of, the public telecommunications network. Such services should be made universally available and supported as necessary to ensure that they can be accessed by all consumers at just, reasonable and affordable rates.

A. Criteria For Evaluating Services To Be Supported

The 1996 Act specifies the criteria to be considered in defining the services to be supported by the Federal universal service support mechanisms. It states that such services should:

- (A) [be] essential to education, public health, or public safety;
- (B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;
- (C) [be] deployed in public telecommunications networks by telecommunications carriers; and
- (D) [be] consistent with the public interest, convenience, and necessity.

(NPRM, at 7-8)

The FCC sought comment on whether services that do not necessarily meet all four of these criteria should be eligible for universal service support. (NPRM, at 8) We agree with the FCC's view that it should "consider" each of these four criteria, but that the 1996 Act does not require that each of the criteria be satisfied for a service to obtain universal service support. It is especially important that services which satisfy all criteria except B -- that is, they are not currently subscribed to by a substantial majority of residential customers -- not be precluded from universal service support. Support should also be provided for services that satisfy all criteria except B, if demand is growing rapidly or subscription is low because customers are not aware of the benefits of the service -- as may be the case for certain new services which help protect the privacy of telephone subscribers.

#### B. List Of Services To Be Supported

##### 1. Services Recommended For Support By FCC

The FCC used these four criteria to evaluate telephone services and determined that universal service support should be provided to five core services: (1) voice grade access to the public switched network -- which provides the ability to place and receive calls; (2) touch-tone service; (3) single-party service; (4) access to emergency services (911); and (5) access to operator services. (NPRM, at 12) Comment was invited on whether each of these services, or additional services, should receive universal

service support. (Id.)

The appropriate definition of services essential to minimally acceptable access to, and use of, the public telecommunications network should balance several factors. A definition that is too narrow may create a gap between those that can fully enjoy the benefits of the telecommunications network and those that cannot, and could therefore have adverse economic impacts. A definition that is too broad could place upward pressure on rates for all customers and impede economic growth.

The NYCPB agrees that each service included on the FCC's proposed list should be universally available. These services are deployed by telecommunications providers and subscribed to by the vast majority of telephone customers.

Voice grade access should be provided universal service support since it is essential for customers to reach others, including providers of medical assistance, law enforcement, education and employment. It satisfies each of the four criteria identified in the 1996 Act.

Touch-tone service also satisfies those four criteria. In addition to being widely deployed and demanded by subscribers, it enables customers to more rapidly contact providers of health and safety services. Further, it is required to interact with increasingly widespread automated information systems.

Universal service support should also be provided to single-party service, emergency service and operator services. Single-party service helps ensure that telephone subscribers have prompt



access to emergency service providers. It is also required for efficient use of telephone services for computer transmissions. Access to emergency services is essential and important for public safety reasons. Finally, access to operator services is required for public safety reasons, especially for away-from-home callers.

## 2. Additional Services To Be Supported

The NYCPB recommends that additional services be provided universal service support. In particular, we recommend that universal service support be provided to relay services, directory listings, and several other services which enhance customer privacy or provide customers increased control over use of their telephone. These services provide substantial benefits and are not unduly expensive to provide.

Relay services should receive universal service support since they help ensure that persons with disabilities have affordable access to specialized terminal equipment they may need to effectively use telecommunications equipment. Relay services have clear public benefits, are being increasingly deployed and are widely used by persons with disabilities.

Directory listings should receive universal service support. These services are widely deployed by telecommunications providers and used by virtually all telephone subscribers. Such services are essential for access to the network and provide clear public safety and health benefits -- especially for those away from home.

Universal service support should be provided for Caller ID

blocking, a service which allows callers to prevent their telephone numbers, and perhaps other identifying information, from being transmitted to Caller ID subscribers. This optional service provides callers increased control over their telephone numbers. Blocking is generally available free of charge where Caller ID is offered and should be provided universal service support where Caller ID is available.

Services which enable telephone subscribers to block access to services such as "900" numbers and international calls provide substantial public benefits. Without such blocking, minors or others may make unauthorized calls which result in significant charges or access to material which the telephone subscriber views as undesirable and/or result in significant charges. Customers should be able to chose from blocking options which would preclude access to all interstate and intrastate pay-per-call services, all 900 number services, and all international calls. Many such blocking options are currently offered free of charge by local exchange companies. The options are demanded by customers, produce clear public benefits, and are not unduly expensive to provide.

Call Trace should be included on the list of services to be provided universal service support since it provides significant public benefits. It is a highly efficient means of automatically recording the time and source of harassing telephone calls. Moreover, Call Trace provides highly reliable evidence in prosecutions against those who make unlawful and abusive telephone calls.

Call Trace is not unduly costly.<sup>1</sup> Before Call Trace was introduced, the source of improper telephone calls was typically investigated manually by a telephone company's Annoyance Call Bureau. Since all customers are at risk of receiving harassing telephone calls, the cost of this labor-intensive approach was generally treated as a common overhead and recovered from all customers. Call Trace service substantially reduces the time and effort required of Annoyance Call Bureau personnel to prove the source of improper telephone calls. In view of these considerations, it is reasonable to require the appropriate incremental costs of Call Trace service to be recovered from all customers.

C. Update Of Services Receiving Universal Service Support

The 1996 Act requires the FCC to periodically evaluate and establish the list of supported services "taking into account advances in telecommunications and information technologies and services." (1996 Act Sec 101(a), §254(c)(1)) The FCC sought comment on the frequency with which the initial list of services adopted in this proceeding should be evaluated. (NPRM, at 32)

The NYCPB recommends that the first review of the list of services adopted in this proceeding occur no later than three years

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<sup>1</sup> Call Trace requires the implementation of Signalling System Seven (SS7) technology. Therefore, we recommend that a deadline be established by which time Call Trace should be universally available. This deadline could be modified for companies showing that implementation of Call Trace would be unduly burdensome.

from the completion of this proceeding, since technology and consumers' use of telecommunications is changing rapidly. For example, it may be reasonable in the near future to expand the definition of basic services beyond simple voice grade access to include the ability to accurately transmit data at some minimum speed. Similarly, new services may be developed which further enhance customers' privacy or safety. The review we recommend will not be burdensome, since it should only be conducted if a cost/benefit analysis demonstrates that the value of the information requested exceeds the cost of collecting that information.

## II. UNIVERSAL SERVICE SUPPORT SHOULD BE PROVIDED TO RESIDENTIAL AND SMALL BUSINESS SERVICES.

The FCC sought comment on whether support for rural, insular, and high-cost areas should be limited to residential users, residential and single-line business users, or should be provided to all users in such areas. (NPRM, at 16) The NYCPB recommends that such support be provided to residential and single-line business customers.

The reasons for providing universal service support to residential customers apply with equal force to single-line business customers. Both require access to the telephone network for health, safety and employment reasons. And like residential users, small businesses may have little or no flexibility in obtaining that access. Most small businesses do not have a viable option to bypass the local exchange company for local service. And

most small businesses do not have realistic opportunities to reduce their total telecommunications bill since they are generally not eligible for the individual rates and volume discounts provided to large businesses.

### III. THE UNIVERSAL SERVICE SUPPORT MECHANISM SHOULD BE COMPETITIVELY NEUTRAL.

The FCC sought comment on whether the universal service support mechanism should be competitively neutral. (NPRM, at 7) The fundamental underlying principle of the 1996 Act is to provide a pro-competitive framework to accelerate private sector deployment of advanced telecommunications technology. Competition provides the best opportunity for consumers to enjoy high quality telecommunications services at reasonable prices. Accordingly, FCC decisions to implement the 1996 Act should ensure that no one competitor or group of competitors is advantaged or disadvantaged.

There are several specific aspects of any universal service mechanism that should be competitively neutral. First, universal service support funding should be collected in a fair and non-discriminatory manner. (1996 Act, §254(b)(1)) All providers of interstate telecommunications services should contribute according to their share of gross interstate revenues net of payments to other telecommunications carriers. This approach is also used for collecting regulatory fees to recover a portion of the FCC's expenses. It meets the requirement of the 1996 Act (1996 Act, §254(d)). The universal service funding mechanism is equitable, specific and predictable.

The method for distributing universal service support payments should also be competitively neutral. Universal service support is currently distributed only to incumbent local exchange companies. This may provide those companies an advantage over competitors who must recover all of their costs from customers.

The NYCPB recommends that the FCC consider a bidding process for distributing universal service support. Carriers could bid on the level of assistance they would need to provide the supported services, with the lowest bid winning. Under this approach, firms would essentially compete for universal service support, thereby minimizing the amount of that support. This solution is, of course, not applicable in areas where only one provider is willing to offer basic, or core, services.

Finally, the amount of universal support also has competitive implications. The support provided should not exceed the cost of providing the core services. If that occurred, the provider of core services could use such profits to subsidize competitive activities. To ensure that the universal support mechanism is not anti-competitive, the amount of the support should be based on the cost of providing core services. Current prices -- which may be greater than cost -- should not be used to determine the amount of necessary support.

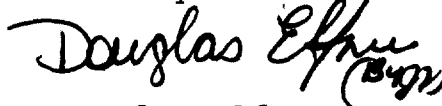
CONCLUSION

The recommendations of the New York State Consumer Protection Board should be adopted to help ensure the availability of reasonably priced and appropriately defined basic telephone services to all New Yorkers.

Respectfully submitted,



Joel Blau  
Director  
Utility Intervention



Douglas Elfner  
Utility Intervenor

Dated: April 11, 1996  
Albany, New York

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of the foregoing document upon all parties on the Federal-State Joint Board in accordance with the service list attached to the Notice of Proposed Rulemaking in this proceeding.

  
Judith Fuentes

Dated: Albany, New York  
April 11, 1996